This document should be read in conjunction with:

* [Detention and Internal Suspension Guidelines](https://education.nt.gov.au/education/policies/suspension-expulsion-and-detention)
* [Suspension Guidelines](https://education.nt.gov.au/education/policies/suspension-expulsion-and-detention)
* [Newsflash Guidelines](http://ed.ntschools.net/eNews%20and%20PWU%20Documents/PWU/2018/20180116/Newsflash%20guidelines.pdf)
* [Enrolment Procedures](https://education.nt.gov.au/education/policies/enrolment)
* [Enrolment in Distance Education Guidelines](https://education.nt.gov.au/policies/enrolment).
1. **INTRODUCTION**

The Department of Education (the department) has a responsibility to its students and staff to provide a safe and supportive learning environment, which enables all students and staff to engage in meaningful learning experiences.

All schools must ensure they have developed and implemented an integrated whole school wellbeing and positive behaviour framework that includes a continuum of procedures that both acknowledges positive behaviour, and supports behavioural needs. Although wellbeing and positive behaviour frameworks reduce disruptions to learning, at times, students may demonstrate behaviour that **is likely to constitute a risk of physical or psychological harm to other persons at the school**.

Where a student presents such a risk, section 93 of the [*Education Act 2015*](https://legislation.nt.gov.au/Legislation/EDUCATION-ACT-2015)(NT) outlines expulsion procedures to expel that student from NT government schools by issuing a written notice from the Minister. Expulsion must only be considered **as a last resort** and in **exceptional and extreme circumstances,** where all other methods for addressing problematic behaviour have been exhausted. Schools should, wherever possible, explore alternatives to expulsion.

The expulsion of a student from NT government schools can be considered where the student:

* + is involved in a **single incident** of such a serious nature that it may be necessary, in the safety and interests of other persons attending the school, that the student be expelled from school; and/or
	+ displays **a significant pattern of unacceptable behaviour** and behaviour management strategies have proven to be unsuccessful, such that it may be necessary, in the safety and interests of other persons attending the school, that the student be expelled from school.

These guidelines detail the legislative requirements and processes for Northern Territory (NT) Government school to expel a student.

1. **DEFINITIONS**

**Expulsion** for the purposes of these guidelines refers to a student being permanently excluded from attending any NT government school. Under section 92 of the [Education Act](https://legislation.nt.gov.au/Legislation/EDUCATION-ACT-2015), this includes:

1. any land, premises or facility occupied or used by a school, or
2. participation in any program or activity conducted by or on behalf of a school.

**Principal** for the purposes of these guidelines, also refers to delegates who are authorised to act on behalf of the principal and/or are educational site leaders regarded as having equivalent authority to a principal.

**Student** for the purposes of these guidelines, is defined as any student enrolled in an NT government school.

**Student/child living independently** for the purposes of these guidelines relates to a student/child who has been assessed by a Centrelink social worker and been deemed to be independent.

**Parent** signifies a child’s father, mother or any other person (e.g. guardian) who has parental responsibility for the child, including a person who is regarded as a parent of the child under Aboriginal or Torres Strait Islander customary law or tradition.

**Parental responsibility (in regards to the definition of parent)** refers to a person who has:

1. daily care and control of the child, or
2. is entitled to exercise all the powers and rights, and has all the responsibilities, in relation to the long-term care and development of the child, or
3. has daily care and control of the child and the entitlement and responsibilities at (b)

and includes a person who has been given the above responsibilities under another state or territory law.

**Daily care and control of a child (in regards to the definition of parent)** refers to a person who is entitled to exercise all the powers and rights, and has all the responsibilities, in relation to the day-to-day care and control of the child.

### Special learning needs under the [Education Act](https://legislation.nt.gov.au/Legislation/EDUCATION-ACT-2015) includes any child that:

a) has a disability under the [*Disability Standards for Education 2005* (Cwlth)](https://www.legislation.gov.au/Details/F2005L00767)*,* or

b) whose educational progress, because of a special factor other than a disability, is likely to suffer unless they have access to special education arrangements.

**Student Administration and Management System (SAMS G2 and SAMS Classic, hereafter referred to as SAMS)** is the standard student administration system used in all NT government schools to manage student enrolment, attendance and behaviour.

**Written notices** for the purposes of these guidelines, are notices provided to a student and parent that clearly set out:

1. a decision and the reasons for it; and
2. any right the person to whom the notice is to be given has to apply for a review of, or to appeal, the decision. This must include any provisions for appeals under the [Education Act](https://legislation.nt.gov.au/Legislation/EDUCATION-ACT-2015).
3. **ROLES AND RESPONSIBILITIES**

**Minister for Education** is responsible for:

* + considering all information relevant to the incident / student behaviour, and where considered necessary in the interests and maintaining the physical and psychological safety of other persons present at a school, issue a written notice to a student enrolled in an NT government school that expels the student from the school
	+ where relevant, and in the best interests and safety of the student and all other persons present at a school, revoke the decision to expel and provide advice to the student and parent(s) about this decision and the requirement for the student to attend school.

**The Chief Executive (CE)** is responsible for:

* + recommending decisions to the Minister in relation to the expulsion of a student, or the re-enrolment of an expelled student, and the review of a decision to expel a student
	+ providing written notice to the parent/student advising of any decisions relating to expulsion ensuring that, if the student is a child of compulsory school age, they continue to have access to education.

**Executive Directors** **of School Improvement and Leadership (SIL)** are responsible for:

* + providing a written notice to the parent and student advising that expulsion has been recommended
	+ ensuring procedural fairness is afforded to the student and parent in line with [section 1.1](#_1.1_Procedural_fairness) of these guidelines.

**Director / Manager Quality School Systems and Support (QSSS)** are responsible for:

* + working with, and advising principals whether a recommendation to expel is warranted
	+ ensuring procedural fairness is afforded to the student and parent
	+ considering and, where appropriate, making alternative recommendations to the principal for problematic behaviour.

**Principals** are responsible for:

* + ensuring that their school develops and implements a whole school approach to wellbeing and positive behaviour and communicating behaviour expectations with the school community
	+ ensuring their school applies consistency and fairness when managing problematic behaviour
	+ ensuring all other available behaviour management avenues have been exhausted prior to recommending expulsion
	+ adhering to the requirements of the Education Act and these expulsion guidelines when considering expulsion
	+ preparing advice to senior executive staff in line with the department’s [Newsflash Guidelines](http://ed.ntschools.net/eNews%20and%20PWU%20Documents/PWU/2018/20180116/Newsflash%20guidelines.pdf) where alleged conduct is of a serious nature or could result in police involvement, broader disruption to the community or media interest
	+ ensuring procedural fairness is afforded to the student and parent when recommending expulsion.

**Parent/s and student/s** are responsible for:

* + ensuring non-attendance when their child/they have been expelled from school.
1. **PROCEDURAL FAIRNESS**

When considering expulsion, principals must ensure procedural fairness in their decision making. Procedural fairness in this type of decision making relates to a student and parent’s right to:

* + be informed of the allegations against them and any proposed sanctions, and be given the opportunity to see and consider the information that a decision is being based on
	+ have an opportunity to respond before a decision is made
	+ have decisions made that are, at all stages, objective, considered and based on all the information gathered from as many sources as possible.

A student may be removed from regular classes and supervised while an investigation into the matter occurs. It is important for parents, where applicable, to be engaged throughout the process, including prior to an expulsion being issued, however, decisions to expel should not be unduly delayed where a parent is unavailable or does not wish to cooperate where there are significant safety risks. Principals must attempt to make contact with the parents via telephone or in person wherever possible.

There will be instances where a student must be expelled and immediately removed from school grounds. This course of action must only occur where the risk to the physical or psychological safety of others at the school cannot be mitigated in any other way.

1. **LEGISLATION**

Section 93 of the [Education Act](https://legislation.nt.gov.au/Legislation/EDUCATION-ACT-2015) provides authority for the Minister for Education to expel a student from an NT government school, when considered necessary in the interests and safety of other persons present at the school.

In accordance with section 95 of the [Education Act](https://legislation.nt.gov.au/Legislation/EDUCATION-ACT-2015), if a student has been expelled from an NT government school, the student must not be enrolled in any other NT government school unless:

1. the Minister gives permission for the enrolment; or
2. the school is a distance education school (refer to the [Enrolment in Distance Education School Guidelines](https://education.nt.gov.au/policies/enrolment)).
3. **PRELIMINARY MATTERS**
	1. **Behaviour management considerations**

Section 90 of the [Education Act](https://legislation.nt.gov.au/Legislation/EDUCATION-ACT-2015) requires principals to consider the following factors prior to making any decisions relevant to the management of a student’s behaviour:

* + the age of the student
	+ the developmental stage of the student
	+ whether the student is a child with special learning needs
	+ the mental health and wellbeing of the student
	+ the physical health and wellbeing of the student
	+ any relevant religious or cultural considerations
	+ the student’s home environment and the arrangements in place for the student’s care.

These factors must be considered prior to making a recommendation to the CE to expel a student.

* 1. **Documentation to be provided to the CE**

To ensure procedural fairness throughout the expulsion process, the parent/student must be provided with all documentation that is given to the CE, and afforded an opportunity to respond.

If further relevant information is identified *after* the parent/student have made their initial submissions, and the CE intends to factor this into their advice to the Minister, the parent/student must also be provided with this information and given an opportunity to reply.

* 1. **Communication**

It is essential that all communication relating to expulsion, particularly where the person is invited to make submissions, are addressed to the appropriate person.

* + Where the student is still in the care of their parent(s), all communications must be with the parent and the parent must be given the opportunity to make submissions on behalf of their child.
	+ Where the student is a child living independently (see student/child living independently definition), communication must be with the student, who may make submissions on their own behalf.

Schools should be mindful to ensure that information about interpreter services is provided, where necessary.

* 1. **Privacy issues**

Documentation provided to the Minister in relation to a recommendation to expel must be “de-identified” by removing personal information as follows:

* + the name(s) of other children who are witnesses, but not directly involved in an incident(s), must be removed. This does not apply to a child directly involved, for example, the name of a child assaulted by the student

*The disclosure of the name(s) of students who have been directly affected should not be new information, and in the event that it is new information, procedural fairness requires that the person be given opportunity to respond to any new allegation/or allegations unknown to them.*

* + in the case of a staff member, their name must be included but personal information, such as a mobile phone number and private contact details, must be removed
	+ relevant details may be removed by “blacking out” the details on a copy of the document – NOT on the original.

In the event that the parent/student requests omitted details, advice should be sought from the department’s Freedom of Information and Privacy Officer as to what may be further disclosed. In determining whether to provide omitted information, the department will consider:

* + whether the information is necessary in ensuring that procedural fairness is afforded
	+ whether the credibility of the witness(es) needs to be questioned.
1. **WHEN EXPULSION MAY BE RECOMMENDED**
	1. **Grounds for expulsion**

Expulsion may be recommended:

* + where a student’s pattern of behaviour is consistently unacceptable, and all attempts to address the behaviour have not resulted in improvement
	+ where the behaviour is so extreme that the school assesses any return to school grounds at any time (immediate or future) would in and of itself present an unacceptable risk of physical or psychological harm.

Decisions to expel must:

* + reflect the context, nature and seriousness of the student’s conduct
	+ be applied fairly and consistently in a manner where students are not issued with this sanction prior to other avenues of behaviour management being exhausted.

It is essential that principals follow all required steps and clearly document both their actions and the reasons for their decision.

* 1. **Considerations for students with disability**

When considering expulsion of a student with disability the principal must consult with the relevant QSSS Director/Manager to ensure the student with disability is not discriminated against, harassed or victimised, in accordance with the [*Disability Discrimination Act 1992* (Cwlth)](https://www.legislation.gov.au/Details/C2016C00763) and the [Disability Standards for Education.](https://www.legislation.gov.au/Details/F2005L00767)

1. **EXPULSION PROCEDURES**
	1. **Temporary suspension**

Where a principal considers that expulsion may be warranted, then the student must be suspended for a period not exceeding **20 school days** in order to:

* + allow the principal time to consider whether a recommendation to expel should be made to the CE
	+ ensure that the CE has sufficient time to make a decision when such a recommendation has been made.

When issuing the [Notice of Suspension](https://education.nt.gov.au/education/policies/suspension-expulsion-and-detention), the principal should advise the parent/student that they are also considering whether a recommendation should be made to the CE that the student be expelled. A copy of these guidelines should be provided with the notice. Refer to the [Suspension Guidelines](https://education.nt.gov.au/education/policies/suspension-expulsion-and-detention).

* 1. **Recommending expulsion**

The principal must consult with the Director / Manager QSSS in relation to a recommendation to expel. Alternative options, such as recommending the CE issue a direction about the student’s enrolment, or place conditions on a student’s enrolment, may be more appropriate.

If the principal remains of the view that a recommendation to expel may be warranted, then the student must be afforded procedural fairness before the final decision to recommend expulsion is made by the principal.

The principal must issue a written notice to the parent/s, or if the [student is living independently](#Definitions), to the student. An invitation to provide submissions within **three school days** from the student or parent/s must be included in the letter. A [Parent letter template – Advising expulsion is being considered](https://education.nt.gov.au/education/policies/suspension-expulsion-and-detention), can be found on the department’s website**.**

After considering any submissions the principal must decide, **within two school days**, whether they wish to recommend the student be expelled.  The principal must immediately inform the parent/student of their decision in writing, and ensure delivery of that decision as expeditiously as possible.

If the principal has decided to recommend expulsion then, in advising of their decision, the principal must issue a written notice to the parent advising of the decision and providing all documentation that the CE will be provided to base their decision on. A [Parent letter template – Recommendation to expel](https://education.nt.gov.au/education/policies/suspension-expulsion-and-detention) can be found on the department’s website.

* 1. **Approval process**

Upon making a decision to recommend expulsion, the principal must immediately forward the recommendation to the CE through the relevant Director / Manager QSSS and Executive Director of SIL. The recommendation to the CE must include:

* + a copy of the Notice of Suspension
	+ the reasons for recommending expulsion, including a detailed account of the incident or incidents giving rise to the recommendation
	+ all relevant supporting documentation relied upon by the principal in reaching their decision, and any evidence to be relied upon by the CE in making a decision
	+ where the student has a medical or other relevant condition which may give rise to the student having special needs, full particulars of any such condition(s) and the associated special needs
	+ full particulars of the incident and copies of all correspondence and other details of communications with the parents and/or student; and
	+ all submissions, if any, made by, or on behalf of, the student.

**Director / Manager QSSS clearance**

The Director/Manager QSSS must carefully check the recommendation and liaise with the principal and Legal Services Unit to ensure that a recommendation to expel is the appropriate course of action. If so, the Director/Manager QSSS will then forward the recommendation to the CE through the Executive Director.

**Executive Director SIL clearance**

If satisfied that it is appropriate for the recommendation to be forwarded to the CE then the Executive Director must:

* + write to the parent/student to advise that the recommendation has been received and that it will be forwarded to the CE
	+ provide the parent/student with a copy of the recommendation and all supporting documents
	+ advise the parent/student that they may make written submissions to the CE within seven days, and if they wish, also include any further information that they consider to be relevant to the CE’s decision, which will be considered by the CE before a decision is made; and
	+ provided the CE is prepared to do so, advise the person that they may also make an appointment to meet with the CE before the decision is made.

Wherever possible the letter to the parent/student must be hand-delivered or otherwise delivered by the most expeditious means available. Where there is any difficulty in communicating with the parent or student, then a copy of the letter should immediately be sent by registered mail while attempts to make personal contact continue.

Before forwarding the recommendation to the CE it is essential that the parent is provided with all documentation that will be considered by the CE in making a final decision.

* 1. **Minister’s decision**

The Minister will consider the following in deciding whether or not it is necessary, in the safety and interests of other persons attending the school, that the student be expelled from school:

* + the principal’s recommendation and all relevant documentation provided by the principal, including the submissions, if any, made to the principal
	+ all written submissions made by, or on behalf of, the student to the CE, and
	+ any verbal submissions made by, or on behalf of, the student to the CE.

The Minster may also consider alternatives to expulsion such as placing conditions on the student’s enrolment for behaviour management purposes, or directing the student to be enrolled in a specific school.

The CE will provide the parent/student with a written notice of their decision, including the reasons for the decision. Where the decision has been made to expel, the written notice must also clearly state the right of the parent/student to apply for a review of the decision.

1. **ESSENTIAL TIMELINES**

The CE must reach a decision and advise the parent/student of that decision before the period of suspension has expired (maximum of 20 school days).  While the timeline may need to be varied to meet the special circumstances of a particular matter, the following timelines must apply:

* + where the principal is considering recommending expulsion, the principal must inform the parent/student of this within **two school days** of the decision to suspend
	+ where a parent/student wishes to meet with the principal to discuss whether a recommendation to expel is to be made, then that meeting should take place **within three school days** of the principal’s notification. Where a meeting cannot be scheduled within the three days, an alternative arrangement should be made – e.g. a teleconference
	+ where an alternative arrangement cannot reasonably be made, the parent/student should be advised that their only option is to make written submissions to the principal within the same **three day period**
	+ a principal may, at their discretion, extend this period by another **two days**, but only where they are satisfied that special circumstance exist that warrant this
	+ where a principal decides to recommend expulsion, then the recommendation should reach the Director QSSS not later than **seven school days** after the date that the student was suspended
	+ the letter from the Executive Director to the parent/student must afford a minimum of **seven days** in which to make submissions to the CE
	+ where the parent/student requests an extension of time in which to make submissions to the CE, they should generally be granted such an extension, provided that valid reasons for requesting such an extension exist, and that any extension will still afford the Minister sufficient time in which to make a final decision before the period of suspension expires
	+ if the parent/student wish to meet with the CE, but cannot do so in a timely manner, then they must be advised that any submissions that they wish to make must be in writing.

1. **NEWSFLASHES**

A Newsflash, prepared in line with the department’s [Newsflash Guidelines,](http://ed.ntschools.net/eNews%20and%20PWU%20Documents/PWU/2018/20180116/Newsflash%20guidelines.pdf) must be generated where the expulsion of a student is being considered. Principals unsure of this requirement should contact their Director / Manager QSSS for guidance.

1. **REVIEW OF DECISION**

A parent/student may make an application to the Minister for a review of a decision to expel. The application must be made in writing within **14 school days** after the parent/student received the written notice from the CE advising of the expulsion. Applications to review must also provide an address to which notices may be sent by the CE, and state the reasons why a review is being requested. If the Minister grants this application, and decides to revoke the expulsion, the student must be reenrolled and attend school.

The CE must provide the parent/student with a written notice of the decision as soon as practicable.

**Review by Tribunal**

Where a parent/student is dissatisfied with the outcome of the Ministers review of the decision to expel, they may apply to the [Northern Territory Civil and Administrative Tribunal (NTCAT)](https://ntcat.nt.gov.au/) for a review of the decision. For a matter to be referred to NTCAT, it must have first been reviewed by the Minister.

1. **RECORDING AND REPORTING**

An expelled student must be removed from the school’s current roll as outlined in the [Enrolment Procedures](https://education.nt.gov.au/policies/enrolment).

All relevant documentation must be filed appropriately in TRM.

1. **ATTACHMENTS**
2. [Parent letter template – recommendation to expel](https://education.nt.gov.au/policies/suspension-expulsion-and-detention)
3. [Parent letter template – advising expulsion is being considered](https://education.nt.gov.au/policies/suspension-expulsion-and-detention)

1. **RELATED POLICY, LEGISLATION AND DOCUMENTS**

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| --- | --- |
| **Northern Territory** | * [Education Act 2015](https://legislation.nt.gov.au/Legislation/EDUCATION-ACT-2015) (NT)
* [NT Civil and Administrative Tribunal](https://ntcat.nt.gov.au/) (NTCAT)
 |
| **Commonwealth (Australian Government)** | * [Disability Discrimination Act 1992](https://www.legislation.gov.au/Details/C2016C00763) (Cwlth)
* [Disability Standards for Education 2005](https://www.education.gov.au/disability-standards-education-2005) (Cwlth)
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